

ORDINANCE NO. 2009-

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 30-103 "HOTEL RESORT DISTRICT;" PROVIDING FOR AMENDMENTS TO THE PURPOSE AND USES; PROVIDING FOR AMENDMENTS TO THE LIST OF PERMITTED, CONDITIONAL, AND PROHIBITED USES; PROVIDING FOR AMENDMENTS TO THE DEVELOPMENT REGULATIONS; PROVIDING FOR SUPPLEMENTARY REGULATIONS; PROVIDING FOR AMENDMENTS TO SECTION 30-184 "AMOUNT OF REQUIRED OFF-STREET PARKING" RELATING TO THE REQUIRED OFF-STREET PARKING FOR HOTELS OR MOTELS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council requested that the Zoning Ordinance Review Committee review and analyze the existing Hotel Resort District regulations; and

WHEREAS, the Zoning Ordinance Review Committee held several meetings to discuss the existing Hotel Resort District regulations and developed significant revisions to the District regulations; and

WHEREAS, the Zoning Ordinance Review Committee has recommended that the proposed modifications to the Village's land development regulations be approved; and

WHEREAS, the Village staff recommends approval of the proposed modifications to the Village's regulations and finds that these regulations are consistent with the Village's Comprehensive Plan; and

WHEREAS, the Village Council, sitting as the Local Planning Agency, has reviewed this Ordinance and has recommended approval; and

WHEREAS, the Village Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE
COUNCIL OF THE VILLAGE OF KEY BISCAINE, FLORIDA, AS FOLLOWS¹:**

Section 1. The preceding “Whereas” clauses are ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Amendment to Section 30-103 of the Village Code. Section 30-103 “Hotel Resort District” of the Village Code of Ordinances is hereby amended to read as follows:

Sec. 30-103. Hotel Resort District.

(a) *Purpose and Uses.*

TABLE INSET:

District Purpose	Main Permitted Uses	Conditional Uses	Accessory Uses	Prohibited Uses
This district is designed to promote the Development of ocean resort Hotels, and Single Family Townhome, or multiple Family residences- in a manner that is consistent with the mass and scale of adjacent properties.	<u>1. Single Family</u> <u>2. Townhome</u> <u>3. Hotel</u> <u>4. Apartment Building</u> <u>5. Public Park</u> <u>6. Any Combination of the above referenced uses</u> <u>7. Uses seaward of the of the Coastal Control Line shall be limited to bath houses, cabanas, outdoor recreational facilities, and restaurants so long as: (1) they are approved by a Coastal Construction Line permit granted by the State of Florida Department of Natural Resources; (2) at least 50% of the permitted</u>	None	Any Use that is customarily associated with the Main Permitted Uses (See sec. 30-111)	Any Use not listed as a Main Permitted Use, Conditional Use, or Accessory Use (See sec. 30-113) <u>Hotel and Apartment Buildings are prohibited within 120 ft. of the Holiday Colony subdivision.</u>

¹ Coding: underlined words are additions to existing text, struck through words are deletions from existing text, shaded text reflects changes made from First Reading.

	<u>area is free of any such structures; and (3) no such individual structure shall exceed 15% of the permitted area.</u>			
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(b) *Development Regulations.*

TABLE INSET:

<u>Use</u>	<u>Density</u>	<u>Setback</u>	<u>Height And Floor Area Ratio</u>	<u>Lot Coverage</u>	<u>Minimum Lot Area</u>
<u>Single Family</u>	<u>Within 120 ft. of Holiday Colony Subdivision density shall be limited to 1 single family home per 100 ft. of lot width and minimum lot depth of 120 ft. When not located within 120 ft. of the Holiday Colony Subdivision, then as set forth on the approved Site Plan.</u>	<u>See Section 30- 100 (e)</u>	<u>See “Floor Ratio and Height Zone Sketch.”</u>	<u>See Section 30-100(b)</u>	<u>12,000 sq. ft.</u>
<u>Townhome</u>	<u>16 Units per acre. Lot dimensions shall be as shown on the approved Site Plan.</u>	<u>See Section 30- 100 (b)</u>	<u>See “Floor Ratio and Height Zone Sketch.”</u>	<u>See Section 30-11(b)</u>	<u>As set forth on the approved site plan</u>

<u>Hotel Only</u>	<u>30 Units per acre. No Hotel shall exceed 350 units</u>	<u>Front:</u> <u>25 ft. + 5 ft. per floor above the first floor but not to exceed 50 ft.</u> <u>Side:</u> <u>25 ft. minimum.</u> <u>No portion of the Building may extend beyond a "building envelop" formed by a prism the base of which is formed by the Lot boundaries and whose height is defined by two base angles of 63 degrees each (see "Building Envelope Sketch").</u> <u>Rear:</u> <u>25 ft. + 5 ft. per floor above the first floor but not to exceed 50 ft.</u>	<u>See "Floor Ratio and Height _____ Zone Sketch."</u>	<u>.40</u>	<u>The site shall be subdivided as of the date of _____ this ordinance</u>
<u>Apartment Building Only</u>	<u>16 Units per acre.</u>	<u>Same as Hotel above</u>	<u>See "Floor Ratio and Height _____ Zone Sketch."</u>	<u>.40</u>	<u>The site shall be subdivided as of the date of _____ this ordinance</u>

Hotel and Apartment Building (either combined in one building or separate buildings on the same site)	12 Apartment Building Units per acre and 30 Hotel Units per acre. There shall be a minimum of 60 Apartment Building Units and a maximum of 100 Apartment Building Units. In addition, there shall be a minimum of 100 Hotel Units and a maximum of 250 Hotel Units.	Same as Hotel above	See "Floor Ratio and Height Zone Sketch." In addition, for every additional Apartment Building Unit and Hotel Unit above the minimum amount of Units required, the maximum amount of total Floor Area permitted shall be decreased by the square footage of the additional Unit(s).	.40	The site shall be subdivided as of the ordinance
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cfriedman 9/14/09 8:37 AM

Comment: Please note that the height has been changed back to 150 Ft. in order to allow the additional height only if a bonus is provided.

cfriedman 9/17/09 2:19 PM

Comment: I removed this requirement as it does not make sense given the bonus system. For each one (1) Apartment Building Unit above the required minimum number of Units there shall be two and one half (2.5) Hotel Units.

c. Hotel and Apartment Building Bonus Schedule

If a Hotel and Apartment Building (either combined in one building or separate buildings on the same site) is constructed, the development may exceed 12 Units per acre for an Apartment Building(s) and 30 Units for a Hotel Building(s) as provided below:

1. Dedication of a public park
 - A. An additional one (1) Apartment Building Unit or 2.5 Hotel Units shall be permitted for each 10,000 square feet of public park dedicated to the Village within the Zone 1 on the "Floor Ratio and Height Zone Sketch."
 - B. For every 7,500 square feet of land off site that is dedicated to the Village for a public park(s) an additional two (2) Apartment Building Units or five (5) Hotel Units shall be permitted.
2. Separation buildings. For every ten (10) linear feet greater than 50 linear feet between buildings in Zones 2-4 on the "Floor Ratio and Height Zone Sketch" an additional one (1) Apartment Building Unit or 2.5 Hotel Units shall be permitted.
3. Leadership Energy and Environmental Design (LEED)
 - A. An additional three (3) Apartment Building Units or 2.5 Hotel Units shall be permitted if a LEED Certified Silver Building is constructed.
 - B. An additional six (6) Apartment Building Units or 2.5 Hotel Units shall be permitted if

a LEED Certified Gold Building is constructed.

C. An additional nine (9) Apartment Building Units or 2.5 Hotel Units shall be permitted if a LEED Certified Platinum Building is constructed.

4. Streetscape Improvements.

A. Sonesta Drive. If the following streetscape improvements are made to Sonesta Drive an additional two (2) Apartment Building units or five (5) Hotel Units shall be permitted:

1. New curb and gutter.
2. Sidewalk
3. Street lighting
4. Drainage
5. Underground utilities
6. Pavers
7. Traffic Calming Devices
8. Street furniture
9. Bicycle path

B. East Heather Drive. If the following streetscape improvements are made to East Heather Drive an additional two (2) Apartment Building units or five (5) Hotel Units shall be permitted:

1. New curb and gutter.
2. Sidewalk
3. Street lighting
4. Drainage
5. Underground utilities
6. Pavers
7. Traffic Calming Devices
8. Street furniture
9. Bicycle path

5. Unified site plan. 100 Apartment Building Units and 250 Hotel Units shall be permitted if a unified site plan for 301 and 350 Ocean Drive is approved by the Village Council and: (1) the Silver Sands principal buildings shall be retained; (2) Additional square footage on the Silver Sands property shall be solely limited to a restaurant, bar, or storage facilities; and (3) All of the Silver Sands Units shall be operated as Hotel Units. If this bonus is utilized, the development will not be eligible for any other bonuses under this section.

6. Affordable housing. For every apartment unit sold or leased on an income restricted basis to persons or families who have resided in the Village for more than 10 years and are 65 or older with incomes below 140% of Area Median Income 1/10 of a credit will be given to a

maximum of ½ credit for up to 5 units of this type. This income and age restriction will be for 20 years.

7. Height. If a development contains a Hotel that has been granted additional Hotel Units pursuant to this section, the building(s) (either Hotel or Apartment) within this development may have a maximum height of 205 feet based upon the following schedule:

A. If the development contains 101-150 Hotel Units height shall not exceed 172 feet.

B. If the development contains 151-250 Hotel Units height shall not exceed 205 feet.

cfriedman 9/18/09 11:24 AM

Comment: Please note that these heights are based upon 11 foot stories.

d. Supplementary Regulations

1. Hotel

- a. Unit Size- Average Hotel unit size shall be based on the Site Plan Review Criteria as set forth in Sec 30-80 and by documentation submitted to justify said determination.
- b. Cooking facilities - Cooking Facilities in Hotel Buildings shall be limited to the following: (i.) One Microwave Oven with a maximum size of 2.0 cubic ft.; (ii.) One refrigerator with a maximum size of 5 cubic ft.; and (iii.) Toasters, coffeemakers, and an ice maker.
- c. Common Area Kitchen in Hotel Buildings- The common area kitchen in Hotel Buildings shall be limited to one room per floor with access directly from a hallway or lobby. No kitchen shall have access to a hotel unit. The use of this kitchen is solely limited to the warming and refrigeration of foodstuffs that are prepared in the hotel or brought from an off site location to the hotel. Kitchen equipment, cooking facilities, silverware, supplies, and appliances that are directly related to this purpose are permitted.
- d. Any Unit with a door to a hallway or lobby is determined to be a Unit.

2. Floor Area Ratio

- a. The Floor Area Ratio shall be as provided on the "Floor Area Ratio and Height Zone Sketch." Floor Area that is not used in the Floor Area Ratio calculation in Zones 1, 2, or 5 within the "Floor Area Ratio and Height Zone Sketch" may be applied to Zones 3 or 4; however, the maximum Floor Area Ratio across the entire development site shall not exceed a Floor Area Ratio of 1.88.
- b. Parking garages located below the Base Flood Elevation shall not be included in the Floor Area Ratio calculation. When the parking garage is located above the Base Flood Elevation, it shall be included in the Floor Area Ratio calculation.
- c. If a development contains Hotel and Apartment Units, then the lot area which is counted towards one Use cannot be counted towards another use.

- d. The maximum FAR for a Development is 1.88.
- e. The FAR assigned to Zone 5 shall only be distributed to Zones 3 and 4.
3. Determination of Yards. The determination of yards shall be as shown in the “Yard Determination Sketch”.
4. Dedicated Easement. The Site Plan shall show a dedicated easement from the Erosion Control Line along the two longest side lot lines of the property. The minimum required width of the easement shall be 7.5 ft. The Site Plan Review criteria (Sec. 30-80) shall be used to determine the maximum required width of the easement.
5. Service Areas and Loading Docks. All service areas shall be adequately screened or buffered from adjacent properties. In addition, loading docks shall be internal to the building.

INSERT TRIANGLE SKETCH

INSERT FLOOR AREA RATIO AND HEIGHT SKETCH

YARD DETERMINATION SKETCH

Density	Maximum Height	Lot Coverage	Minimum Lot Area
Hotel 30 Units per acre No Development shall exceed 350 Hotel Units Apartment Building 16 Units per acre If a Development contains Hotel and Apartment Units, then Lot area, which is counted towards one Use, cannot be counted towards another Use.	150 ft.	.40	The site shall be subdivided as of the date of this ordinance.

TABLE INSET:

—	Setback	Floor Area Ratio
Front:	25 ft. + 5 ft. per floor above the first floor but not to exceed 50 ft.	.40, however oceanfront and bayfront Buildings that provide a 7.5 ft. dedicated Easement on each side of the property from the Street to the beach shall use the following:

Side:- -	<p>25 ft. minimum (however no portion of Building may extend beyond a "building envelope" formed by a prism the base of which is formed by the Lot boundaries and whose height is defined by two base angles of 63 degrees each, * see sketch below).</p> <p>Side Setbacks shall be measured from the dedicated Easement as required in the Floor Area Ratio calculation.</p> <p>—</p>	<p>1 Story .40 4 Story 1.00 7 Story 1.60 2 Story .60 5 Story 1.20 8 Story 1.80 3 Story .80 6 Story 1.40 9 Story+ 2.00</p> <p>The dedicated Easement shall be counted in the Floor Area Ratio calculation. The Easement shall be improved with landscaping and a hard paved surface. The improvements shall require approval by the Building, Zoning, and Planning Director prior to the issuance of a building permit and must be installed prior to the issuance of a certificate of occupancy.</p>
Rear:- -	<p>25 ft. + 5 ft. per floor above the first floor but not to exceed 50 ft.</p> <p>—</p>	

Section 3. Amendment to Section 30-184 of the Village Code. Section 30-184

“Amount of required off-street Parking” of the Village Code of Ordinances is hereby amended to read as follows:

Sec. 30-184. Amount of required off-street Parking.

(a) The required off-street Parking spaces shall be provided and maintained on the basis of the minimum requirements listed in this article.

TABLE INSET:

Use	Required Number of Spaces	Special Conditions Additional Required Spaces
(1) Apartment Building	1.75 per Unit	Developments with more than 10 Units, then 1 additional per 5 Units, marked as guest Parking
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(6) Hotel or Motel	<u>± .75 per Unit. If the parking garage or parking lot is operated as a valet service, then the parking spaces may be shown on the site plan in tandem. The site plan application shall include a valet parking plan.</u>	Accessory Uses 65% of requirement if calculated as a Main Permitted Use
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Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Conflicts. All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this ____ day of _____, 200_.

PASSED AND ADOPTED on second reading this ____ day of _____, 200_.

MAYOR ROBERT L. VERNON

ATTEST:

CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY